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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,718	01/30/2002	Frederick A. Vero	1803-12	8196

7590 02/03/2004

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EXAMINER	
LINDSEY, RODNEY M	

ART UNIT	PAPER NUMBER
3765	7

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/060,718	VERO ET AL.	
	Examiner	Art Unit	
	Rodney M. Lindsey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12,15 and 16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12,15 and 16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil.

Note in Andrews et al. the base fabric as at 100a and the dissimilar fiber 100b. Product-by-process claims 1 and 11 although reciting structure in terms of how it is made (a computer controlled manipulating step) are still product claims, and it is patentability of the structure of the product which must be determined and not the process step. Andrews et al. do not teach chain stitching as claimed. Weil teaches old and well known in a seamless fabric the use of chain stitching (see column 4, lines 29-43). It would have been obvious to one of ordinary skill in the art at the time of the invention to knit the glove of Andrews et al. of chain stitching since chain stitching is shown by Weil to be one form of stitching compatible with seamless formation of fabrics.

3. Claims 2, 4-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil as applied to claim 1 above, and further in view of Kuehnel. Kuehnel teaches old the use of cotton or wool in a glove inherently of a tensile modulus of elasticity as claimed. It would have been obvious to form the base fabric of Andrews et al. of the cotton and wool of Kuehnel to achieve a durable glove capable of withstanding hard usage (see

page 1, column 1, line 7 of Kuehnel). With respect to claim 6 note the use of polyester in Andrews et al. (see claim 11, thereof). With respect to claim 10 note the islands at 100a or 100b of Andrews et al.

4. Claims 3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil as applied to claim 1 above, and further in view of Sullivan. Sullivan teaches old the use of high performance fibers of a tensile modulus of elasticity as claimed (see column 3, line 67). It would have been obvious to provide the glove of Andrews with the high performance fibers of Sullivan to achieve the like result of protecting the hand against injury. With respect to claims 7 and 8 note the inorganic fiberglass fibers of Andrews et al. With respect to claims 7 and 9 note the use of aramid fibers in Andrews et al.

5. Claims 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil and Inoue et al.

Andrews et al. shows manipulating a base fabric as at 100A and manipulating a dissimilar fabric as at 100B. Weil teaches old and well known in a seamless fabric the use of chain stitching (see column 4, lines 29-43). Inoue et al. teaches old the use of a computer to selectively manipulate different fabric (see for instance column 17, lines 47-51). It would have been obvious to one of ordinary skill in the art at the time of the invention to knit/sew the glove of Andrews et al. of chain stitching since chain stitching is shown by Weil to be one form of stitching compatible with seamless formation of fabrics. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method shown by Andrews et al. with the computer of the method taught by Inoue et al. to achieve the advantage of automatically manipulating the dissimilar fabric. The use of a single needle or multiple needles to manipulate the dissimilar

performance fiber would have been considered an obvious matter of choice as all that would have been required is that a unilayer be maintained. With respect to claims 15 and 16 note the glove of Andrews et al.

Response to Arguments

6. Applicant's arguments filed January 23, 2004 have been fully considered but they are not persuasive. Contrary to applicant's remarks Andrews et al. is maintained to teach a unilayered fabric. Applicant's assertion that multiple needles cannot form a seamless unilayer is seen to be baseless. In response to applicant's remarks drawn to Weil, clearly taught by Weil is a fabric, which relies on a dissimilar fiber as with Andrews et al. Andrews et al. in no way preclude use of a particular type of dissimilar fiber. In response to applicant's remarks drawn to Kuehnel, Andrews et al., not Kuehnel, is relied on for teaching the use of high performance fibers. In response to applicant's remarks drawn to Sullivan, Sullivan is merely relied on for the teaching of particular high performance fibers and not of a particular type of knitting. The propriety of such teaching of Sullivan is hereby maintained. With respect to applicant's remarks drawn to claims 12, 15 and 16, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The rejection of claims 1-12, 15 and 16 ably set forth above is deemed proper in all respects.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml